REMARKS

Entry of the Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 2-5, 7, 8, 10-13, 15 and 16 are pending. Claims 2-5, 8, 10-13 and 16 stand rejected. Claims 7 and 15 are objected to but would be allowable if rewritten in independent form.

Claims 3, 4, 5, 7, 12, 13, 15 and 16 have been amended. Claims 17 and 18 are new, and Claims 2 and 10 have been cancelled.

Claims 2, 3, 10, 11 and 16 stand rejected under 35 USC 102(e) as being anticipated by Driessen (USP no. 6,850,559).

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims.

Driessen discloses a system and method for transmitting data over a channel in which data are categorized in at least two different categories. Corrupted data of the first category are replaced using a first replacement method such as retransmission and forward error correction. The corrupted data of the second category are replaced using a second method. (see ABSTRACT).

Driessen discloses that "if the data is transmitted to the forward error correction circuit, the forward error correction circuit calculates error correction data for the original data and can then transmit the original data and the error correction data to the packetization circuit." (see col. 5, lines 14-20). Driessen further discloses that "data packets of the higher category number will often be assigned more error correction data than data packets of the lower category, in which case it will be possible to correct more corrupted data of the higher category number than corrupted data of the lower category." (see col. 6, lines 22-27 and col. 7, lines 54-58). Driessen, however, also discloses that "if such data replacement is not sufficient for recovering the corrupted data, any remaining corrupt data may be replaced by error mitigation." (see col. 6, lines 27-29 and col. 7, lines 59-61)).

Hence, Driessen teaches a system for providing different levels of protection based on the level of priority (significance) of the data and provides additional redundancy information (FEC redundancy data packets) for higher priority data over lower priority data. However, Driessen fails to teach that "quantity of the redundancy data being a function of the level of priority of the primary frame under consideration and of the error rate of the communication channel," as is recited in the claims.

The instant Office Action states that "[i]n addition, it is quite established that the degree of error correction code, i.e., 'the quantity of the redundancy data packets' is determined based on the measured error rate of the communication channel to minimize the error rate to an acceptable level." (see OA, page 3, lines 4-7).

However, contrary to the statements in the Office Action, Driessen is silent with regard to determining the number of redundancy data packets as a function of the channel error rate. Rather, Driessen discloses using an FEC to correct errors in the channel and when the number of redundancy data packets of the FEC is insufficient to correct the errors using mitigation methods for the remaining uncorrected data. Accordingly, Driessen teaches a system with a fixed FEC number of packets and assigning greater number of packets being used for high priority data and a lower number of packets for lower priority data. However, Driessen fails to determine the "quantity of the redundancy data being a function of the level of priority of the primary frame under consideration and of the error rate of the communication channel."

It is well recognized that to constitute a rejection pursuant to 35 USC §102, i.e., anticipation, all material elements recited in a claim must be found in one unit of prior art.

Driessen cannot be said to anticipate the present invention, because Driessen fails to disclose each and every element recited. As shown, Driessen fails to determine a "quantity of the redundancy data being a function of the level of priority of the primary frame under consideration and of the error rate of the communication channel."

At least for this reason, applicant submits that the rejection of the claim has been overcome and can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

With regard to the remaining independent claims, these claims recite subject matter similar to that recited in claim 1 and were rejected for the same reason used in rejecting claim 1. Thus, for the remarks made in response to the rejection of claim 1, which are also applicable in response to the remaining independent claims, and reasserted, as if in full, herein, applicant submits that the reason for rejecting these claims have been overcome and the rejection can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claims.

With regard the remaining claims these claims ultimately depend from the independent claims, which have been shown to contain subject matter not disclosed by, and, hence, allowable over, the reference cited. Accordingly, these claims are also allowable by virtue of their dependency from an allowable base claim.

Accordingly, applicant respectfully requests withdrawal of the rejection and allowance of the claims.

Claims 4, 5, 12 and 13 stand rejected under 35 USC 103(a) as being unpatentable over Driessen as applied to claim 3.

Claim 4, 5, 12 and 13 depend from claims 3 and 11, which have been shown not to be anticipated by Driessen and the Office Action provides no further reference to correct the deficiencies noted in the Driessen reference or that teaches the subject matter recited in the dependent claims.

Accordingly, the subject matter recited in the aforementioned dependent claims is not rendered obvious by the teaching of Driessen.

Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

Claims 17 and 18 have been added to provide proper antecedent basis for the subject matter claimed therein. No new matter has been added. Support for claims 17 and 18 may be found in cancelled claims 2 and 10.

Applicant wishes to thank the examiner for the indication of allowable subject matter in claims 7 and 15. However, for the remarks made herein applicant believes that all the claims are in an allowable form.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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Date: April 27, 2006

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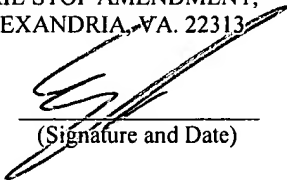Attorney for Applicant
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